

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANK T. PERANO, doing	)	
business as GSP Management	)	Civil Action
Company,	)	No. 10-cv-01623
	)	
Plaintiff	)	
	)	
v.	)	
	)	
SEAN ARBAUGH,	)	
RANDY KING	)	
and LEE MCDONNELL	)	
	)	
Defendants	)	

O R D E R

NOW, this 24<sup>th</sup> day of March, 2011, upon consideration of the following documents:

(1) Defendants' Motion to Dismiss Plaintiff's Amended Complaint, which motion was filed on June 11, 2010; together with

Brief in Support of Defendants' Motion to Dismiss the Amended Complaint, which brief was filed June 11, 2010;

(2) Plaintiff's Brief in Opposition to Defendants' Motion to Dismiss, which brief was filed July 2, 2010;

(3) Defendants' Reply Brief in Support of Their Motion to Dismiss the Amended Complaint, which reply brief was filed on July 29, 2010;

upon consideration of the pleadings, exhibits, and record papers; and for the reasons articulated in the accompanying Opinion,

IT IS ORDERED that defendants' motion to dismiss is granted in part and denied in part.

IT IS FURTHER ORDERED that defendants' motion to dismiss the claims in Count I of plaintiff's Amended Complaint alleging that

defendants violated plaintiff's procedural due process rights, is granted.

IT IS FURTHER ORDERED that plaintiff's procedural due process claim is dismissed from Count I of the Amended Complaint with prejudice.

IT IS FURTHER ORDERED that defendants' motion to dismiss the claims in Count I of plaintiff's Amended Complaint alleging that defendants violated plaintiff's Equal Protection rights and violated his First Amendment free speech rights by retaliating against him for exercising those rights, is granted.

IT IS FURTHER ORDERED that plaintiff's Equal Protection claims and First Amendment free speech retaliation claims are dismissed from Count I of the Amended Complaint without prejudice for plaintiff to file a more specific second amended complaint, consistent with the accompanying Opinion, by April 22, 2011.<sup>1</sup>

IT IS FURTHER ORDERED that defendants' motion to dismiss Count II of plaintiff's Amended Complaint alleging that defendants conspired to deprive plaintiff of his Constitutional rights, is granted.

IT IS FURTHER ORDERED that Count II is dismissed from the Amended Complaint with prejudice.

---

<sup>1</sup> The effect of this Order is that Count I is dismissed in its entirety from the Amended Complaint. The procedural due process claims in Count I are dismissed with prejudice. The remaining Count I claims (Equal Protection and First Amendment free speech retaliation) are dismissed without prejudice to further amend as indicated.

IT IS FURTHER ORDERED that defendants' motion to dismiss Count III of plaintiff's Amended Complaint alleging intentional interference with contractual relations, is granted.

IT IS FURTHER ORDERED that Count III is dismissed from the Amended Complaint with prejudice.

IT IS FURTHER ORDERED that the motion to dismiss of defendant of Lee McDonnell is denied.

IT IS FURTHER ORDERED that defendants' motion to dismiss plaintiff's request for injunctive relief is denied.

IT IS FURTHER ORDERED that defendants' motion to dismiss on the ground of abstention is denied.

IT IS FURTHER ORDERED that in the event plaintiff does not file a second amended complaint by April 22, 2011, plaintiff's remaining Equal Protection and First Amendment free speech retaliation claims may be dismissed for lack of prosecution.<sup>2</sup>

BY THE COURT:

\_\_\_\_\_  
/s/ JAMES KNOLL GARDNER  
\_\_\_\_\_  
James Knoll Gardner  
United States District Judge

---

<sup>2</sup> It is the sense of this Order that plaintiff's entire Amended Complaint is dismissed. The Equal Protection claims and First Amendment free speech retaliation claims are dismissed from Count I without prejudice for plaintiff to file a more specific second amended complaint, concerning only those claims, by April 22, 2011. Plaintiff's request for injunctive relief survives concerning only the Equal protection and First Amendment free speech retaliation claims. In all other respects, the Amended Complaint is dismissed with prejudice.